93

(3)

No. 07-1278

FILED
MAY 19 2008
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The

Supreme Court of the United States

DARYL DAHLQUIST,

Petitioner,

v.

PATRICK G. VUKICH,

Respondent.

On Petition For A Writ Of Certiorari To The Court Of Appeals Of The State Of Washington

REPLY BRIEF

DARYL DAHLQUIST
Petitioner, Pro se
15238 SE 272d Street
Kent, WA 98042
253-631-2906

INTRODUCTION

The new points raised by respondent at

BASIS TO OBJECTION
THE PETITION FOR REVIEW

The first, second and third paragraphs make reference to

> Mr. Dahlquist's Petition for review to the Washington State Supreme Court was not filed timely under Washington Court Rule of Appellant Procedure (RAP) 13.4(a), as it was filed on March 5, 2007, more than 30 days after the February 2, 2007 decision of the Court of Appeals. That untimeliness in filling his Petition to the Washington State Supreme Court alone provides a sufficient basis for the Washington Supreme Court's denial of Dahlquist's petition for Review.

March 5, 2007 is 31 days from February 2, 2007. (RAP) 18.6(a) provides that if the last day falls on a Saturday, Sunday* or legal holiday the period follows the next week day thus being Monday, March 5, 2007.

Dahlquist's first reference to PETITION FOR REDRESS OF GRIEVANCE, FIRST AMENDMENT, U.S. CONSTITUTION, & EQUAL PROTECTION OF THE LAW, FOURTEENTH AMENDMENT, was

---

* February 2007 has 28 days, minus 2 days equals 26 days and add the first four days of March 2007 this equals 30 days and the 30-day appeal period ended on Sunday, March 4th, 2007.

attached as Exhibit 4, 1 thru 18 with attachments. App. 15 to Petitioner's Petition for Writ, at number, 2. Reply to objection to motion for order granting approval to proceed with suit as originally filed.

Respondent states, "The 1995 order requiring Dahlquist to seek permission before filling legal action against Mr. Vukich was never appealed by Dahlquist." Respondent's brief p.2. "Mr. Dahlquist did not appeal or seek to set aside the order requiring him to obtain permission before suing Mr. Vukich." Respondent's brief p.3. Dahlquist did appeal the May 30, 1995 AMENDED ORDER ON MOTION FOR SUMMARY JUDGEMENT (App. 30 of Petitioner's Petition For Writ).

To clarify when Vukich was unable to prevail against Dahlquist (bottom page 9 Petitioner's Petition For Writ) in the 91-2-14190-8 cause and Dahlquist was led to believe the case was over by his attorney (who did not consult with two other clients) only to find out when Vukich refiled the suit and the May 30, 1995 order was handed down and all of Dahlquist's legal defenses "fraud in fact and law, RCW 4.16.040 and RCW 4.16.020, case dismissed and a motion denied, and two material perjuries by Vukich," when Dahlquist's defenses were removed on 5-30-95 in the 93-2-28320-2 cause then where Vukich could not prevail 91-2-14190-8 now Dahlquist cannot defend and is unable to address the above legal defenses on appeal, the injunctive order was just attached to it.

The Respondent goes on to say, "The court found the briefing to be inadequate, and noted that a party may not 'compel the court to scour the legal landscape to make sense of vague and general assertions of law thrown together . . . '" Respondent's brief p.2. We are not talking about some two million people in prison, or about some four million people that are homeless, we are talking about a man's homestead exemption that is personal to the person.

Vukich objects to "Dahlquist claims that the property purchased at the sheriff's sale was worth $160,000." Respondent's brief p.3. Dahlquist is noted as a one-third owner (App. 20) and at the time of the sheriff's sale held title as his separate estate, lived on the property, still does, and has since September 1980, has a mailing address of 15238 SE 272nd St., Kent, WA, 98042. Having a disability and being an owner/occupant qualifies for reduced real-estate tax status.

Washington State homestead exemption RCW 6.13.010, *et seq.*

I. The trial court's injunction triggered the tolling provisions of RCW 4.16.230.

There appears to be little case law which interprets the wording of RCW 4.16.230. The absence of controversy, should not prevent this Court from intervening to provide clarifying interpretation of the statute. That statute states:

> When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

RCW 4.16.230.

The Commissioner's ruling suggests that because Mr. Dahlquist claims that the statute may only "seem to apply" that the argument can be ignored. (App. 12) However, if the statute applies, the statute should not be ignored. If the statute's words and meaning are clear, recourse to legislative history is unnecessary. *State ex rel. Citizens Against Tolls v. Murphy*, 151 Wash.2d 226, 88 P.3d 375 (2004). In this case, the simple application of the wording of that statute provides Mr. Dahlquist with the procedural protections he would have had but for the interruption by what he claims was an invalid prior restraint by the trial court. Under the order of May 30, 1995, Dahlquist lost the ability to determine when his lawsuit should be filed, if a lawsuit should involve any member of the Vukich family. The injunction, still in effect on the date of Judge Trickey's order, does not require a "relate back" device as suggested by the Commissioner's ruling (App. 12). On the other hand, if the clerk of the court, having accepted the March 15, 2005 filing and assigning it a cause number, and then having rejected the filing, lacked the authority to do so, the March 15, 2005 date would remain the actual filing date. In these circumstances, both the

clear wording of the statute and its fair effect on the proceedings invoked by Mr. Dahlquist warrant the determination that a three-year statute of limitations could not fairly obstruct the filings of Mr. Dahlquist.

II. The extinguishing of the Dahlquist homestead claim violated the right of homestead established by Article XIX of the Washington Constitution.

The right of homestead derives from the Washington State Constitution which states, "[t]he legislature shall protect by law from forced sale a certain portion of the homestead and other property of all heads of families." Wash. Const., Art. XIX. Homestead and exemption laws are favored in the law and are to be liberally construed. *Cody v. Herberger,* 60 Wash.2d 48, 371 P.2d 626 (1962). The assertion of a homestead right is presumptively valid. RCW 6.13.070. It has held that a foreclosure and its auxiliary proceedings do not engage principles of res judicata with regard to the question of the asserted homestead right's validity. *Costanzo v. Harris.* 71 Wash.2d 254, 427 P.2d 963 (1967). A reviewing court may be limited by statute to whether there have been irregularities in the sheriff's sale; that kind of review, as noted by the Court of Appeals, does not preclude independent consideration of the issue of whether or not a valid and constitutional right of homestead has been asserted and what is the value of that homestead

right. That independent consideration appears to be precisely what Mr. Dahlquist has not been granted.

CONCLUSION

Daryl Dahlquist respectfully requests this Court to grant the petition for a writ of certiorari.

Respectfully submitted,

DARYL DAHLQUIST
Petitioner, Pro se
15238 SE 272d Street
Kent, WA 98042
253-631-2906